

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

THOMAS ANTONIO REDDING,

Movant,

v.

CIVIL ACTION NO. 3:12-8434
(Criminal No. 3:09-00099-03)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that Movant's Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 (ECF No. 366) be denied to the extent Movant seeks retroactive application of the Fair Sentencing Act; Movant's Motion be construed as a Motion for a Sentence Reduction under 18 U.S.C. § 3582(c)(2) to the extent that Movant seeks consideration of his sentence in light of Amendments 750 and 759 to the United States Sentencing Guidelines; and Movant's sentence be reviewed accordingly. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **DENIES** Movant's Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 (ECF No. 366) to the extent Movant seeks retroactive application of

the Fair Sentencing Act. The Court will construe Movant's Motion as a Motion for a Sentence Reduction under 18 U.S.C. § 3582(c)(2) to the extent that Movant seeks consideration of his sentence in light of Amendments 750 and 759 to the United States Sentencing Guidelines, and will review the motion accordingly. Movant may have until **May 18, 2014**, to file any additional briefing.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: April 18, 2014



ROBERT C. CHAMBERS, CHIEF JUDGE